

<b>Notice of Allowability</b>	Application No.	Applicant(s)
	10/763,945	PALAZZO ET AL.
	Examiner Pia F. Tibbits	Art Unit 2838

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTO-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1.  This communication is responsive to the application filed 1/22/2004.
2.  The allowed claim(s) is/are 1-10.
3.  The drawings filed on 22 January 2004 are accepted by the Examiner.
4.  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a)  All
  - b)  Some\*
  - c)  None
 of the:
  1.  Certified copies of the priority documents have been received.
  2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3.  Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5.  A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6.  CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
  - (a)  including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
    - 1)  hereto or 2)  to Paper No./Mail Date \_\_\_\_\_.
  - (b)  including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7.  DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

#### Attachment(s)

- |   |  |
|---|--|
| 1. <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 6. <input type="checkbox"/> Interview Summary (PTO-413),<br>Paper No./Mail Date _____. |
| 3. <input checked="" type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),<br>Paper No./Mail Date <u>6/13 and 2/14/05, 1/22/04</u> | 7. <input type="checkbox"/> Examiner's Amendment/Comment                               |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br>of Biological Material  | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance   |
|   | 9. <input type="checkbox"/> Other _____.   |

**DETAILED ACTION**

This Office action is in answer to the application filed 1/22/2004.

***Allowable Subject Matter***

1. Claims 1-10 are allowed.

With regard to claim 1: none of the references of record prior to applicant's filing date discloses, teaches, or suggests a method for powering an implantable medical device with an electrochemical cell, the cell comprising an alkali metal anode coupled to a cathode of a cathode active material activated with an electrolyte, comprising, *inter alia*, the step of upon the cell reaching at least about 15% DOD, discharging the cell to deliver capacity equivalent to about 0.2% DOD to about 10% DOD through the application of at least two current pulses separated by a rest period of about one-half to about five seconds.

With regard to claims 2-10: none of the references of record prior to applicant's filing date discloses, teaches, or suggests a method for powering an implantable medical device with an electrochemical cell, the cell comprising an alkali metal anode coupled to a cathode of a cathode active material activated with an electrolyte, comprising, *inter alia*, the step of upon the cell reaching about 15% to about 30% DOD, causing the cell to deliver a first current pulse discharge of significantly greater amplitude than that of a pre-pulse current immediately prior to the first current pulse discharge; waiting about one-half to about five seconds; and discharging the cell to deliver a second current pulse discharge of significantly greater amplitude than that of a pre-pulse current immediately prior to the second current pulse discharge, wherein the first and second current pulse discharges remove cumulative capacity equivalent to about 0.2% DOD to about 10% DOD from the cell.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Pia Tibbits whose telephone number is (571) 272-2086. If unavailable, contact

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the Supervisory Patent Examiner Mike Sherry whose telephone number is (571) 272-2084. The Technology Center Fax number is (703) 872-9306.

3. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

PFT

August 1, 2005

Pia Tibbits

Primary Patent Examiner

A handwritten signature consisting of a stylized oval shape with a vertical line extending from its right side.